

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
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www.montgomerycountymd.gov/mc/council/board.html

WORSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, July 14, 2004, 1:30 p.m.

ACTION ITEMS:

1. **Minutes**, June 23 and 30, 2004 Worksessions.

Action: Approved (AIF/AMC, 5-0).

2. **CBA-228 [S-428], Petition of Ernest L. Kendall** (child day care facility). Memorandum to the Board from Stanley N. Garber, Investigator, Department of Permitting Services (DPS), requesting that the special exceptions be revoked.

Action: Revoked special exception as abandoned. (DLB/LLM, 5-0).

3. **CBA-713 [CBA-713-A, CBA-713-B, CBA-1210, S-798], Petition of Silver Spring-Wheaton Nursing Home, Inc.** (nursing home). Letter to the Board from Mark M. Viani, Esquire, requesting an administrative modification. (Large exhibits: site grading and landscape plan, site plans, landscape details plan, photometric and lighting plan and landscape plan).

Action: Approved administrative modification. (LLM/AIF, 5-0).

4. **CBA-892, Petition of James M. Whitlock, M.S.** (non-resident medical practitioner). Letter to the Board from Lloyd H. Scribner, M.D., P.A.

Action: Revoked special exception as abandoned. (DLB/LLM, 5-0).

5. **CBA-975, [CBA-1192], Petition of John J. Bender and Tamarack Country Club, Inc.** (private country club). Memorandum to the Board from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing for abandonment. (AIF/LLM, 5-0).

6. **CBA-1040, Petition of Edgar Mc Peak** (horticultural nursery and garage). Letter to the Board from Merritt W. Huntington, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned. (LLM/AIF, 5-0).

7. **CBA-1213, Petition of Chesapeake & Potomac Telephone Company of Maryland** (public utility buildings, public utility structures and telecommunication facilities). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (AIF/AMC, 5-0).

8. **CBA-1438, Petition of Richard D. Durham** (private riding stable). Letter to the Board from the petitioner notifying the Board that special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (LLM/DLB, 5-0).

9. **CBA-2051-A, [CBA-2051, CBA-1967, CBA-1591, S-709, S-1107], Petition of Medical Facilities, Inc.** (nursing home). Letter to the Board from Erica A. Leatham, Esquire, requesting an administrative modification.

Action: Granted administrative modification [Resolution will include the hours for weekly testing of the generator between 11 a.m. and 3 p.m.], (LLM/DLB, 5-0).

10. **CBA-2814 [CBA-2814-A], Petition of John Michael** (automobile storage lot). Letter to the Board from Soo Lee-Cho, Esquire, requesting an extension of time.

Action: Granted two week extension of time, (DLB/LLM, 5-0).

11. **CBA-2841 [S-130], Petition of Rodolfo P. Ramirez, D.V.M.** (veterinary hospital). Letter to the Board from Susan W. Carter, Esquire, requesting a transfer of the special exception.

Action: Granted transfer of the special exception, (AIF/AMC, 5-0).

12. **CBA-2847, Petition of James and Molly Ford** (horticultural nursery). Memorandum to the Board from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the current property owner.

Action: Revoked special exception as abandoned, (LLM/DLB, 5-0).

13. **S-21, Petition of Patricia Collum** (child day care facility). Memorandum to the Board from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the current property owner.

Action: Revoked special exception as abandoned, (AMC/AIF, 5-0).

14. **S-119, Petition of Kimels of Burnt Mills, Inc.** (off-street parking). Memorandum to the Board from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the current property owner.

Action: Revoked special exception for failure to implement, (AMC/AIF, 5-0).

15. **S-485, Petition of Laurence and Anne Karpman** (antique shop). Letter to the Board from the petitioners requesting an administrative modification.

Action: Item deferred for additional information regarding: (1) detailed site plan; (2) updated exterior lighting plan; (3) detailed statement of operations.

16. **S-538-C, Petition of Aspen Hill Racquet Club** (private club). Letter to the Board from Robert H. Metz, Esquire, and Anne C. Martin, Esquire, submitting additional information. (Large exhibits: site, landscape and lighting plans).

Action: Re-opened the record to include Mr. Metz and Ms. Martin's letter with attachments, (AMC/LLM, 5-0).

17. **S-684, Petition of Georgia-Dennis Associates** (dental/medical clinic). Inspection report to the Board from Stanley N. Garber, Investigator, DPS. Also included is a letter from Jeff Van Grack, Esquire, and Stuart Barr, Esquire, requesting a transfer and an administrative modification.

Action: Item deferred and will return to the Worksession Agenda on 9/1/04.

18. **S-862-B [A-6008], Petition of The Federation of American Societies for Experimental Biology** (private educational institution). Letter to the Board from Robert H. Metz, Esquire, and Anne C. Martin, Esquire, requesting consolidation of the cases.

Action: (1) Granted consolidation of the cases; (2) referred the records to the Office of the Hearing Examiner, (LLM/AIF, 5-0).

19. **S-937, Petition of Stanley E. Shulman** (accessory apartment). Memorandum from Cece Kinna, Housing Code Inspector, Department of Housing and Community Affairs (DHCA), notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the petitioner.

Action: Revoked the special exception as abandoned, (DLB/LLM, 5-0).

20. **S-949, Petition of Kathryn T. Simpson** (accessory apartment). Letter to the Board from Christine V. Simpson requesting a transfer of the special exception.

Action: Granted transfer of the special exception, (AIF/DLB, 5-0).

21. **S-1010, Petition of Gale S. Appleton** (accessory apartment). Memorandum to the Board from John Whitt, Housing Code Field Supervisor, DHCA, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the current property owner.

Action: Revoked special exception as abandoned, (AMC/LLM, 5-0).

22. **S-1078, Petition of Sugarloaf Service Center** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Also included is a letter from John R. Barr, Esquire, requesting an administrative modification. (Large exhibit: site plan).

Action: (1) Granted administrative modification; (2) Board will receive a status report on the special exception in 30 days, (AMC/AIF, 5-0).

23. **S-1293, Petition of Woodfield King Development Company** (commercial riding stable). Memorandum to the Board from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked the special exception as abandoned, (DLB/LLM, 5-0).

24. **S-1364, Petition of Joyce B. MacDonald** (accessory apartment). Letter from Robert N. Strain, the current property owner, notifying Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (LLM/AIF, 5-0).

25. **S-1371, Petition of Atitaya B. O'Brien** (accessory apartment). Letter to the Board from the petitioner requesting a temporary increase in the period for temporary absence. Also included is a letter from Linda Bird, Manager, DHCA.

Action: Granted increase in the temporary absence period, (AIF/DLB, 5-0).

26. **S-1540, Petition of Richard E. Curtis** (accessory apartment). Letter to the Board from Kendal J. Bush requesting a transfer of the special exception.

Action: Granted transfer of the special exception, (LLM/DLB, 5-0).

27. **S-1630, Petition of Mobil Oil Corporation** (automobile filling station). Letter to the Board from Joseph A. Lynott, Esquire, requesting a transfer of the special exception.

Action: Granted transfer of the special exception, (AIF/AMC, 5-0).

28. **S-2218, Petition of L'Enfant Corporation t/a Julia Brown Montessori** (private educational institution). Letter to Board from Philip E. Perrine, AICP, requesting an administrative modification. (Large exhibit: site and landscape plan).

Action: Granted administrative modification, (AIF/DLB, 5-0).

29. **S-2223, Petition of Sharon M. and Ellis R. Carpenter** (accessory apartment). Letter from the petitioner notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (LLM/DLB, 5-0).

30. **S-2460, Petition of Hampshire Village Associates, Ltd. Partnership** (elderly housing). Letter from Stephen J. Orens, Esquire, and Rebecca D. Willens, Esquire, requesting an administrative modification.

Action: Granted administrative modification, (AIF/AMC, 5-0).

31. **S-2474, Petition of North Potomac Senior's Housing, LLC** (elderly and handicapped housing). Letter to the Board from Barbara A. Sears, Esquire, and Erin E. Girard, Esquire, requesting an administrative modification.

Action: Granted administrative modification, (AMC/AIF, 4-1/LLM/opposed).

32. **S-2479, Petition of American Tower Corporation, AT&T Wireless Services and Carol Mullinix** (public utility buildings, public utility structures, and telecommunication facilities). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification.

Action: Granted administrative modification subject to a final site plan for the special exception, (AIF/AMC, 5-0).

33. **S-2489, Petition of Mark W. and Kay Colvin** (accessory apartment). Letter to the Board from Vishakha B. Thaker requesting a transfer of the special exception.

Action: Granted transfer of the special exception, (LLM/DLB, 5-0).

DECISION ITEMS:

34. **A-5976, Petition of GBI Corporation** (single-family dwellings/townhouses). Public hearing held 5/5/04.

Action: Denied variance request, (DHS/AMC, 2-3).

35. **A-5992, Petition of Mary H. and Ta-Jen Hu** (existing single-family dwelling and one-story addition). Hearing held 7/7/04.

Action: Denied variance request, (AMC/LLM, 2-3).

36. **S-2602, Petition of Marcelo and Shirley Montes de Oca** (accessory apartment). Hearing Examiner's Report and Recommendation.

Action: Adopted the Hearing Examiners Report and Recommendation and granted the special exception with conditions, (LLM/DLB, 5-0).

37. **S-2603, Petition of Rhoda Moore** (accessory apartment). Hearing Examiner's Report and Recommendation.

Action: Adopted the Hearing Examiner's Report and Recommendation and granted the special exception with conditions, (DLB/LLM, 5-0).

38. **S-2606, Petition of Connie Snyder** (accessory apartment). Hearing Examiner's Report and Recommendation.

Action: Adopted the Hearing Examiner's Report and Recommendation and granted the special exception with conditions, (AIF/LLM, 5-0).

PENDING ITEMS:

39. **CBA-1036 [CBA-2648], Petition of Nicholas J. Chaconas** (radio station and transmitter towers). Letter to Board from Lon Hamann, President, Montgomery Village Foundation, requesting a public hearing. Item deferred for future Worksession. [W/S 5/5/04].

40. **CBA-1332, Petition of Huggins and Harrison, Inc.** (outdoor automobile sales lot). Letter to the Board from the petitioner requesting an administrative modification. Item deferred for additional information. Board requests a site plan with dimensions that shows the location of the trailer in relation to the property's boundary lines.

PENDING ITEMS (continued):

41. **CBA-2372 [CBA-2372-A], Petition of Mobil Oil Corporation** (automobile filling station). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification. (Large exhibits: site development and landscape plans). Item deferred for site and photometric plans. [W/S 11-12-03].
42. **S-390, Petition of Twin Farms Club, Inc.** (community swimming pool). Letter to the Board from Teresa A. McKenna, President, requesting an administrative modification. (Large exhibit: site and grading plan). (1) Item deferred for receipt of a site plan with the existing conditions; (2) item referred to M-NCPPC Technical Staff of review of administrative modification request.
43. **S-569, [CBA-3051, S-95], Petition of C. O. and M. E. Bland** (horticultural nursery). Letter of complaint to the Board from David C. Gardner, Esquire, regarding the special exception use. Board requests DPS inspection of the special exception property.
44. **S-858, Petition of Surjeet K. Singh** (child day care facility). Letter to the Board from the petitioner requesting an administrative modification. Also included is a memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Item deferred for review by DPS of trash enclosure, stockade fence, existing and proposed landscaping and use of pool. Item referred to M-NCPPC Technical Staff for review. [W/S 2-18-04].
45. **S-882, Petition of Rene Monserrat and Emilio A. Brouwer** (horticultural nursery and commercial greenhouse/garden center). Inspection report from Stanley N. Garber, Investigator, DPS. Also included is a memorandum from Andrew Thompson, Associate County Attorney. (1) Re-opened the record to include Mr. Garber's and Mr. Thompson's letter; (2) Show Cause Hearing deferred to a future Worksession. [W/S 6/16/04].
46. **S-1064, Petition of Leon Trager and Greentech Landscaping** (horticultural nursery and greenhouse). Letter to the Board from the petitioner requesting an administrative modification. Deferred item for inspection by DPS. [6/23/04].
47. **S-1266, Petition of Edith Schubert** (off-street parking). Letter to the Board from Martin J. Hutt, Esquire. Item referred to DPS for re-inspection. [6/23/04].
48. **S-1573, Petition of Robert H. Edmund** (side lot line setback). Letter to the Board from Judith M. Koenick requesting an explanation of a building permit issued by DPS. Item referred to DPS for inquiry.
49. **S-1747, Petition of Thompson R. and Nancy S. Buchanan** (accessory apartment). Memorandum to the Board from John Whitt, Housing Code Field Supervisor, DHCA, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the petitioner. Item deferred for future Worksession. [W/S 5/5/04].
50. **S-1751, Petition of Hanna D. Saah** (boardinghouse). Memorandum to the Board from Stanley N. Garber, Zoning Investigator, DPS, regarding the inspection of the special exception. Letter will be sent to the petitioner to determine what future action he proposes for the special exception property. [Letter to S/E holder 6-18-03].
51. **S-1903, Petition of Exxon Company, U.S.A.** (automobile filling station). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification. Item deferred for an approved landscape and lighting plan. [W/S 11-12-03].

PENDING ITEMS (continued):

52. **S-2145, Petition of Southwestern Bell Mobile Systems, Inc.** (public utility buildings, public utility structures and telecommunications facilities). Letter to the Board from Brian Hurley, Regional Real Estate Manager, requesting a transfer of the special exception. Item deferred for future Worksession. [W/S 6/9/04].

53. **S-2184, Petition of Charles R. Gilbert** (indoor rifle and pistol range). Letters to the Board from Anthony R. Shore, Esquire, requesting an administrative modification. Item deferred for additional information from the petitioner. [W/S 3-17-04].

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